

## REMARKS

Reconsideration of this application as amended is respectfully requested.

In the Office Action, claims 1-29 were pending and rejected. In this response, no claim has been canceled. Claims 1-9, 12, 16, 20, 23, and 26 have been amended. No new matter has been added.

Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,108,350 of Araujo et al. ("Araujo"). It is respectfully submitted that claims 1-29 include limitations that are not disclosed by Araujo. Specifically, independent claim 1 recites as follows:

1. A computer implemented method comprising:  
receiving at a first network element of a network provider a subscriber session with a first tunneling protocol;  
determining whether the subscriber session is to be routed to a destination using a second tunneling protocol that is different than the first tunneling protocol;  
routing at least a portion of the subscriber session to a second network element within the network provider, if the subscriber session is to be routed to the destination using the second tunneling protocol, the second network element being dedicated within the network provider to handle the second tunneling protocol; and  
switching the subscriber session out via the second network element using the second tunneling protocol.

(Emphasis added)

Independent claim 1 includes determining whether the subscriber session is to be routed to a destination using a different tunneling protocol (e.g., the tunneling protocol required by the destination. If so, a network element of the network provider converts the subscriber session conforming to the required tunneling protocol before transmitting the session to the destination. It is respectfully submitted that the above limitations are absent from Araujo.

Rather, Araujo relates to a method for detecting an alternative protocol that may be better than the original protocol and negotiating the sender of the data packets to ask a permission to transmitting the data packets using the alternative protocol (see, the Abstract of Araujo).

Specifically, when the central office detects that there may be a better protocol available, the central office signals the customer premise equipment (CPE) which originates the data packets to change to the better protocol. If the CPE agrees and changes to the new protocol, the central office transmits the data packets using the new protocol. Otherwise, if the CPE does not agree and does not change, the central office will transmit the data packet according to the old protocol. See, for example, Fig. 3A, col. 12, line 36 to col. 13, line 21 of Araujo.

That is, the central office does not convert the protocol of the data packet based on its own information. Rather, the central office tells the CPE to convert the data packet using the new protocol. It is up to the CPE whether to conform to the central office's signals. The central office will transmit the data packets subsequently according to the CPE's decision, which teaches away from the present invention as claimed.

It is respectfully submitted that the above limitations are completely absent from Araujo. Therefore, independent claim 1 is not anticipated by Araujo.

Similarly, independent claims 6, 9, 12, 16, 20, 23, and 26 include limitations similar to those recited in claim 1. Thus, for the reasons similar to those discussed above, independent claims 6, 9, 12, 16, 20, 23, and 26 are not anticipated by Araujo.

Given the rest of the claims depend from one of the above independent claims, at least for the reasons similar to those discussed above, it is respectfully submitted that the rest of the claims not anticipated by Araujo.


In view of the foregoing, Applicant respectfully submits the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

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